IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 2ND JANUARY 2007 / 12TH POUSHA 1928

Crl.Rev.Pet.No. 630 of 1999

CRA.308/1996 of SESSIONS COURT, THRISSUR
CC.37/1995 of JUDL. MAGISTRATE OF FIRST CLASS COURT, WADAKKANCHERY

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REVN. PETITIONERS/APPELLANTS/ACCUSED NOS.1,3 & 4:

1. RAVI, S/O KARUNAKARAN, PAZHAYANNUPADAM DESOM, MANALITHARA VILLAGE, THRISSUR DIST.

2. RAMANAN, S/O AYYAPPAN, VILLADAM DESOM, VILAVATTOM VILLAGE, THRISSUR DISTRICT.

3. GOPI, S/O THANKAPPAN, KATTILAPPURAM DESOM, MANALITHARA VILLAGE.

BY ADV. SRI.P.VIJAYA BHANU
SRI.S.R.MANOJ

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.SANTHOSH KUMAR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 02/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P. Balachandran, J.

Crl.R.P.No. 630 of 1999

ORDER

This revision is at the instance of Accused Nos.1, 3 and 4 in C.C.No.37/95 on the file of the Judicial First Class Magistrate's Court, Wadakkancherry. They were convicted by the Magistrate for offences under Sections 447, 341, 323, 324 and 427 IPC read with Section 34 thereof and were sentenced to undergo rigorous imprisonment for a period of one year under Section 324 IPC read with Section 34 thereof. No separate sentence was awarded for offences under Sections 447, 341, 323 and 427 IPC read with Section 34 thereof. On appeal by the petitioners, the appellate court confirmed their conviction for offences under Sections 447, 341, 323, 324 and 427 IPC read with Section 34 thereof, but modified and reduced the sentence awarded to them under Section 324 IPC to rigorous

imprisonment for a period of one month and to pay a fine of Rupees five thousand each and in default to undergo rigorous imprisonment for a further term of three months. It was also ordered that out of the fine amount, if realised, an amount of Rupees three thousand each shall be paid to PWs 1 to 3 under Section 357 Cr.P.C.

2. When the matter came up for final hearing, counsel for the petitioners submitted that he has no arguments to be advanced on merits of the case, in view of the evidence available in the case to establish the guilt in the accused and that, therefore, his plea is only to have the sentence of imprisonment converted to one for payment of compensation. Having considered the entire aspects of the case, I am of the view that the sentence can be modified as desired by the counsel for the petitioners, as the punitive intent can be achieved thereby.

3. In the result, I modify the sentence awarded to the petitioners for offence under

Section 324 IPC to one of imprisonment for one day till rising of court and for payment of compensation of an amount of Rupees fifteen thousand each by each of the petitioners under Section 357(3) Cr.P.C. and in default to undergo imprisonment for a period of two months. Imposition of fine by the appellate court is set aside. The compensation amount shall be deposited in the court below positively within a month. They shall appear before the trial court positively on 2.2.2007 to receive the sentence and to make payment of the compensation amount. In case the compensation amount is not deposited on or before that date by each of the petitioners, the petitioner, who has not deposited the compensation amount, shall undergo the default sentence, which shall be enforced by the Magistrate forthwith. Compensation amount, if realised, shall be disbursed to PWs 1 to 3 in equal proportions.

This Crl.R.P. is disposed of as above.

2nd January, 2007 (K.P.Balachandran, Judge)

tkv

K.P.Balachandran, J.

Crl.R.P.No.630 of 1999

ORDER

2nd January, 2007